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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,800	01/30/2001	Kirkland W. Vogt	5138	1001

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Terry T. Moyer
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

8

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS8

Office Action Summary

Application No.

09/772800

Applicant(s)

Vogt et al.

Examiner

John Guarriello

Group Art Unit

1777

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/1/2003, 4/2/2003
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17, 19-24, 27-77 is/are pending in the application.
- ☐ Of the above claim(s) 65-71, 73-77 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-17, 19-24, 27-64, 72 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

Election/Restriction

15. The Examiner acknowledges papers # 6 and 7, the amendment of 4/1/2003, and the IDS of 4/2/2003.

The Examiner acknowledges the affirmation of the Restriction to Group I claims 1-64, and species claim 72. Group II claims 65-71 and claims 73-77 are withdrawn as non-elected. Since there are no arguments for traverse the Restriction is made final.

16. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

17. Since applicant has amended the specification regarding Trademarks, the rejection is withdrawn.

Claim Rejections - 35 USC § 112

18. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

19. Claims 21, 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 21, line 2, it is not clear if the term should be **methacrylic** not “methacylic”. Applicant corrected this in amended claim 24.

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In claim 45, it is not clear what the preamble regarding the term "first surface" encompasses since the claim does not state second surface or other surfaces. Applicant never responded to the rejection regarding this issue.

Claim Objections

20. Claim objections are withdrawn since applicant amended the claims.

21. The rejection over the claims regarding Alfekri et al. 6,001,137, 102 has been withdrawn since applicant amended the claims.

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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23. Claims 1-17, 19-24, 27-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alfekri et al. 6,001,137 in view of Sudduth et al. 5,770,531 and Lebold et al. 6,054,399 and Kirk Othmer pages 598-601 .

Alfekri describes ink jet printing and treating textile products before ink jet printing (corresponding to a textile substrate with a coating) with a cationic alkylammonium salt, cationic binder, a quaternary fatty amide, corresponding to a coating, (see abstract; column 1, lines 17-22; column 2, lines 17-42).

Alfekri describes coating materials binding to natural and synthetic fibers woven or knitted, (column 3, lines 1-4). Alfekri describes applying the coating to one surface of the fabric or to both surfaces of the fabric, (column 3, lines 40-49). Alfekri describes a coating softener with the cationic

polymers or copolymers to improve waterfastness and hand characteristics of the fabric and other chemicals, (column 4, lines 3- 67). Alfekri describes the addition of other components may be an acrylic copolymer which corresponds to a repellant finish, (column 2, lines 39-42).

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Alfekri differs from the claimed invention because it is silent about specific repellants of fluorocarbon, siloxane, and others regarding textiles and weave.

Sudduth describes nonwoven fabrics and treatments of the fabrics so as to enhance softness by means of chemicals, (column 1, lines 1-38). Sudduth describes softening chemicals which include silicone and siloxane additives, (column 6, lines 52-53; column 7, lines 27-35). Sudduth describes other softeners of cationic polymers which can be quaternary ammonium compounds and others which may be silicone, (column 9, lines 25-50).

Lebold describes fluorocarbon treatment of textiles which can be woven or nonwoven textiles, (see abstract; column 3, lines 1-4, lines 46-67). Lebold describes the fluorocarbon particles can be applied by many methods of which one can be chemical binding, (column 5, lines 48-60), and for various intended purposes which can be repellancy finish.

Kirk Othmer describes textiles and the various materials that can affect finishes for waterproofing or repellancy, (page 598). Kirk Othmer describes

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different repellant finishes corresponding to fluorochemicals used for upholstery, drapery, automotive fabrics, and carpeting, (page 599). Kirk Othmer describes other finishes for repellancy can be silicones, resin-based finishes (modified melamine resins), waxes, wax-metal emulsions, and organometallic complexes, (pages 600-601). Kirk Othmer describes that textile fibers may be modified by chemicals for repellancy and further describes how fabric construction, twist, ply, coarseness or yarns, affect performance of repellants, (page 601).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the textile of Alfekri with the fluorochemicals of Lebold or the siloxanes of Sudduth and the fabric modification parameters of Kirk Othmer motivated with the expectation that the image produced with the coatings will produce an improved fabric of durability and reduced cost as taught by Kirk Othmer, (page 599, paragraphs 1 and 2). Regarding the number of picks per inch and wales per inch it would have been obvious to one of ordinary skill in the art to optimize this

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construction since this only involves routine skill in the art as noted by Kirk Othmer page 601 and see, *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Applicant's arguments regarding the combination of references has been considered but it is the Examiner's position that the applicant attacks references individually, applicant cannot show non-obviousness by attacking references individually since the rejection is base upon the combination of references, see *In re Keller*, 208, USPQ 871 (CCPA 1981). Moreover, applicant's argument that the references must have an express teaching has been considered, but it is the Examiner's position that it is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art, *In re Sheckler*, 168 USPQ 716 (CCPA 1971); *In re McLaughlin* 170 USPQ 209 (CCPA 1971); *In re Young* 159 USPQ 725 (CCPA 1968).

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24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

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number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


John J. Guarriello:gj

Patent Examiner

June 5, 2003


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700